Supreme Court, U.S.
FILED

(1)

97-33 JUL 2 1997

OFFICE OF THE CLERK

IN THE UNITED STATES SUPREME COURT

BARBARA C. MILLER,
Petitioner

v.

ALABAMA SUPREME COURT,
Respondent.

From the Alabama Supreme Court
S.C.# 1950330

PETITION FOR WRIT OF CERTIORARI

Barbara C. Miller

Barbara C. Miller
Petitioner pro se
120 Holmes Ave. N.E. Suite 400
Huntsville, AL 35801
(205) 536-7566/ 534-2086FAX

29

QUESTIONS PRESENTED FOR REVIEW

WHETHER THE DUE PROCESS RIGHTS OF THE PETITIONER WERE VIOLATED WHEN, AFTER A NOTICE AND HEARING OF CHARGES WAS HELD, THE DISCIPLINARY BOARD FAILED TO SERVE THE MAY 25, 1995 ORDER OF SUSPENSION OF HER LICENSE UPON HER, AND

THE SUPREME COURT ISSUED A DIFFERENT ORDER ON JUNE 21, 1995, EFFECTIVE JUNE 19, 1995, AND SERVED UPON THE PETITIONER ON JUNE 29, 1995, FOR A NINETY (90) DAY SUSPENSION, AND

WHEN THE PETITIONER BROUGHT THE ERRORS OF LACK OF THE REQUIRED NOTICE, LACK OF SERVICE OF THE FIRST ORDER OF SUSPENSION AND THE RETROACTIVE DATE FOR THE EFFECTIVE DATE OF THE SUSPENSION TO THE COURT'S ATTENTION, AND CON- TINUED TO PRACTICE, THE COURT DENIED HER MOTION TO CORRECT THEIR ORDER, AND

THE PETITIONER THEN SERVED HER SUSPENSION TIME OF NINETY (90) DAYS, AND

THE DISCIPLINARY BOARD HELD ANOTHER HEARING FINDING HER IN VIOLATION OF THE RETROACTIVE SUPREME COURT ORDER EVEN THOUGH SHE NEVER RECEIVED THEIR FIRST ORDER, AND NEITHER ORDER GAVE HER THE REQUIRED FORTY-TWO DAYS' NOTICE TO BEGIN HER SUSPENSION PERIOD, AND SHE WAS SERVING HER NINETY (90) DAYS SUSPENSION PURSUANT TO THE BOARD'S MAY 25, 1995 ORDER, AND

THE DISCIPLINARY BOARD ISSUED ANOTHER ORDER ON OCTOBER 18, 1995, AGAIN WITHOUT THE REQUIRED FORTY-TWO DAY'S NOTICE, SUSPENDING HER LICENSE FOR

NINETY-ONE (91) DAYS WHICH IN REALITY IS AN INDEFINITE PERIOD OF TIME BECAUSE IT REQUIRES REAPPLICATION FOR HER LICENSE, AND

THE PETITIONER APPEALED THE OCTOBER 18, 1995 ORDER TO THE STATE SUPREME COURT WHO AFFIRMED IT WITHOUT OPINION, AT WHICH TIME THE PETITIONER SERVED A SUSPENSION OF NINETY-ONE DAYS AND REAPPLIED FOR HER LICENSE WITH PROOF THAT SHE HAD NOT PRACTICED LAW FOR NINETY-ONE (91) DAYS, BUT HER APPLICATION WAS RETURNED, AND

THEN, THE SUPREME COURT ISSUED ANOTHER ORDER OF SUSPENSION UPON THE PETITIONER, DIFFERENT FROM THE OCTOBER 18, 1995 ORDER, AGAIN WITHOUT THE REQUIRED FORTY-TWO DAYS' NOTICE, PLACING HER IN ANOTHER NINETY-ONE (91) DAY SUSPENSION EFFECTIVE IMMEDIATELY ON THE DATE IT WAS ISSUED, AND WHICH IS CURRENTLY IN EFFECT AT THIS TIME, AND

THE ASSISTANT GENERAL COUNSEL REQUESTED THE ORDERS FROM THE SUPREME COURT WITHOUT ANY NOTICE OR HEARING TO THE PETITIONER, SUCH REQUEST BEING IN VIOLATION OF HIS DUTIES UNDER THE DISCIPLINARY PROCEDURAL RULES, AND

THE SUPREME COURT ISSUED ORDERS DIFFERENT FROM THE ORDERS ISSUED BY THE DISCIPLINARY BOARD AND IN VIOLATION OF THE DISCIPLINARY PROCEDURE RULES SINCE ONLY THE DISCIPLINARY BOARD OR THE DISCIPLINARY COMMISSION CAN SUSPEND OR DISBAR AN ATTORNEY IN THE STATE OF ALABAMA.

PETITION FOR WRIT OF CERTIORARI

Comes now, BARBARA C. MILLER, an attorney licensed in the state of Alabama, and files her Petition for Writ of Certiorari seeking a writ from this United States Supreme Court to reverse orders of suspension issued by the Alabama supreme court and the Alabama disciplinary board on the grounds that the supreme court and the state bar have violated her right to due process under the Fourteenth Amendment to the United States Constitution as follows:

1. Barbara C. Miller, the petitioner herein, was licensed to practice law in the state of Alabama in 1982.

2. In 1993 she considered running for Madison County Circuit Court judge.

3. Prior to qualifying as a candidate the law partner of her opponent and one of his major contributors filed complaints against her with the Alabama State Bar. Nevertheless, she ran for judge in June, 1994.

4. A month after she lost the election formal charges on these complaints were filed against her by the Alabama State Bar even though she had prior complaints pending for as long as three years.

5. On May 19, 1995 she appeared with her attorney, Leon Garmon, before Panel II of the Disciplinary Board of the Alabama State Bar.

6. Rather than try these charges she agreed to take a 90-day suspension

provided all prior complaints pending as of that date were dismissed.[1]

7. A discussion arose at this hearing relative to the amount of time she would have to inform her clients and wrap up any pending actions before she began her suspension, but no decision was reached.

8. The Alabama Rules of Disciplinary Procedure (ARDP) gives forty-two days' notice 0528before a suspension must begin:

Rule 26(c) **Orders of Suspension or Disbarment**

> "Orders imposing suspension or disbarment by the Disciplinary Board or the Disciplinary Commission shall be effective forty-two (42) days after entry..."

9. A few days after the hearing her lawyer received a draft of an order of suspension for his review.

10. He requested that "any other complaint
filed with the Alabama State Bar as of Friday, May 19, 1995" be added to the draft order so all would be dismissed as agreed.

11. Thereafter, neither an executed nor a filed order of suspension from the

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[1]. The Alabama State Bar has failed and refused to dismiss one complaint which is a fee dispute from a former client.

disciplinary board was ever served on either the petitioner or her attorney.

12. On June 29, 1995 the petitioner received by facsimile from her attorney a copy of an order from the Alabama Supreme Court. No order of suspension from the disciplinary board was attached. (Exhibit 1 Appendix)

13. This order was dated June 21, 1995, effective June 19, 1995 and suspended her for ninety (90) days, but gave no notice when to begin her suspension period as required by ARDP 26(c).[2]

14. This order further stated that the "Disciplinary Board, Panel II, of the Alabama State Bar, filed with this Court on May 26, 1995 the order of suspension in the matter of Barbara C. Miller."[3]

15. Because the order did not correctly reflect the agreement reached between the petitioner and the Alabama State Bar, nor gave any notice of the beginning date of her suspension, on July 6, 1995 she filed a Motion for Relief from Order with the Disciplinary Board, Panel II, chairman, under Alabama Rule of Civil Procedure

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[2]. The dates are correct. The Petitioner was already in violation of this order before she received it.

[3]. On July 24, 1995 when the petitioner finally received a copy of the May 26, 1995 order it had no date stamped on it to show it was filed in the supreme court, nor could the state bar produce a filed copy at a hearing on September 29, 1995.

(ARCP) 60(b).[4]

16. This motion informed the board that the petitioner had not received their order of suspension allegedly filed on May 26, 1995.[5]

17. For the same reasons given in paragraph 15 the petitioner filed a Motion to Alter, Amend and Vacate the Order with the Alabama Supreme Court on July 6, 1995 so they could correct their order to reflect the agreement reached between the petitioner and the state bar, and to give her proper notice to begin her suspension.

18. The petitioner continued to practice, erroneously believing that the Motion to Alter, Amend and Vacate the Order with the supreme court would create a "stay" of the June 21, 1995 order.[6]

19. Unable to get a copy of the order of suspension of May 26, 1995 from her attorney, on July 18, 1995 the petitioner requested a copy from the clerk of the

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[4]. According to ARDP 3(b) the Alabama Rules of Civil Procedure (ARCP) and the Alabama Rules of Appellate Procedure (ARAP) apply to disciplinary procedures.

[5]. The Disciplinary Board never decided this motion even when it was brought to their attention at a hearing on September 29, 1995.

[6]. ARCP 59(e) allows this at the trial court level if filed within thirty (30) days after entry of the judgment. It is similar to the ARAP Rules 40 and 41(a) which allow a stay upon application for a rehearing. There was no other way to bring these errors to the attention of the supreme court.

supreme court.

20. On July 24, 1995 she received an executed copy, but it showed no filing date stamped on it. (Exhibit 2 Appendix)

21. Also, this order stated that her suspension should begin "no sooner than June 19, 1995," which was not the same as the supreme court order of June 21, 1995. Neither order gave the required forty-days'(42) notice to begin the suspension.

22. Attached to the May 26, 1995 order was a copy of a letter written by Milton Moss, assistant general counsel of the Alabama State Bar, requesting the Alabama Supreme Court issue a suspension order against the appellant. (Exhibit 3 Appendix)

23. Nothing in the Alabama Rules of Disciplinary Procedure, Civil Procedure or Appellate Procedure allowed the assistant general counsel of the Alabama State Bar to make such a request from the supreme court. In fact, this communication with the court clerk appeared to violate the duties and functions of the General Counsel of the Alabama State Bar.

ARDP Rule 6(a) Duties and Functions

The General Counsel for the Alabama State Bar shall exercise and perform all of the duties, functions, and powers conferred upon him or her by these Rules, including, but not limited to:

(1) Performing all prosecutorial functions, consisting of screening all information relating to

alleged lawyer misconduct or incapacity that comes to his or her attention to determine whether the alleged misconduct is within the jurisdiction of the Disciplinary Commission and the Disciplinary Board;

(2) Investigating all allegations which, if true, would constitute grounds for discipline or transfer to disability inactive status;

(3) Recommending disposition based upon the facts revealed by the investigation;

(4) Prosecuting matters at all stages; and

(5) Any other duty or responsibility conferred upon him or her by the Executive Committee of the Board of Commissioners of the Alabama State Bar.

24. On Friday July 28, 1995 the petitioner received a call from the Alabama Supreme Court informing her that her motion to alter, amend or vacate the order of June 21, 1995 was denied.[7]

25. That same day the appellant was

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[7]. The Alabama Supreme Court informs parties of decisions by phone on Fridays, and sends them the hard copy by mail arriving the following Monday.

served with formal charges from the Alabama State Bar dated July 24, 1995 alleging she was in violation of the June 21, 1995 order as she had continued her practice while her motion to alter, amend or vacate the order was pending a decision.

26. The following Monday, July 31, 1995, the petitioner closed her office and remained closed until October 31, 1995 pursuant to the agreement she had with the Alabama State Bar and in compliance with the order of suspension dated May 26, 1995.

27. Petitioner then filed her answer to these most recent charges listing defenses of lack of due process, mitigation and, upon completion of her ninety-day (90) suspension on October 30, 1995, accord and satisfaction.

28. A hearing was held on these new charges on September 29, 1995.

29. The petitioner was suspended again by the disciplinary board. This time for ninety-one (91)[8] days by an order of suspension dated October 18, 1995 for the unauthorized practice of law, engaging in conduct prejudicial to the administration

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[8]. ARDP Rule 8 TYPES OF DISCIPLINE (b) **Suspension** states that "A lawyer who has been suspended for more than ninety (90) days must apply for reinstatement pursuant to Rule 28, unless the order of suspension expressly provides otherwise. Realistically, any suspension over ninety (90) days is an indefinite suspension.

of justice and conduct that adversely reflects on her fitness to practice law.

30. The October 18, 1995 order of suspension from the disciplinary board read that it was to be "effective upon issuance of an order by the Alabama Supreme Court implementing this decision." (Exhibit 4 Appendix)

31. This order was appealed on November 24, 1995.

32. On September 6, 1996 the Alabama Supreme Court affirmed it, without opinion. No effective suspension date was given. (Exhibit 5 Appendix)

33. Petitioner immediately closed her office for ninety-one (91) days from September 6, 1995 to December 7, 1996 and so informed the state bar. Then, on September 20, 1996, she filed for a rehearing.

34. On March 28, 1997 the rehearing was denied, so the petitioner sent in a reapplication for her license,[9] but this was returned by the state bar sometime later.

35. On May 9, 1997 another order of suspension from the Alabama Supreme Court was filed against the petitioner pursuant to another request by the assistant general counsel of the Alabama State Bar. (Exhibit 6 and 7 Appendix) See ARDP 6 supra.

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[9]. No order required a re-application for her license, but the petitioner is expected to know all the disciplinary rules and follow them whether they are in an order or not.

36. Even though there was no required notice and no effective date of the suspension given to the petitioner she, nevertheless, closed down her practice for the third time that very day.[10]

37. By this time petitioner had received four orders of suspension. (1) supreme court order of June 21, 1995, (2) disciplinary board order of May 25, 1995, (3) disciplinary board order of October 18, 1995 and (4) supreme court order of May 9, 1997 all relating back to the complaints filed when she ran for circuit court judge.

38. On May 16, 1997 petitioner filed a Motion to Strike the May 9, 1997 supreme court order alleging it was in violation of Rule 6, supra, of the ARDP as well as Rule 4(b) of the ARDP which follows:

(b) **Powers of the Disciplinary Board and its Chairman**

1) Each Disciplinary Board panel shall exercise the powers conferred upon it and shall perform the duties imposed upon it by these Rules or by any other rules of procedure adopted by the Board of Commissioners of the Alabama State Bar. It shall specifically have the power and duty to consider and investigate any alleged ground for discipline or any alleged

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[10]. At no time was petitioner ever given the required forty-two (42) days' notice of the effective date of any suspension according to ARDP 26(c). This created a hardship on many clients who three times unexpectedly were without counsel.

disability of a lawyer that comes to its attention. It has this power and duty whether the alleged ground for discipline or alleged disability comes to its attention by its own motion or comes to its attention by some other means or action. It shall have the power to take such action with respect to an alleged ground for discipline or alleged disability as shall be appropriate to effectuate the purposes of the Rules.

39. To date the Motion to Strike is still pending and there has been no response from the state bar.

40. Appellant alleges her right to due process has been violated because neither she, nor her attorney, were ever served with the May 26, 1995 Order of Suspension from the Disciplinary Board nor did this order give any forty-two (42) days' notice of the effective date of her agreed-upon suspension.

41. Petitioner further alleges her due process rights were violated when she received an order from the Alabama Supreme Court on July 29, 1995, effective June 19, 1995, placing her in violation of the order at the time it was decided on June 21, 1995.

42. She further alleges that her due process rights were again violated when the assistant general counsel of the Alabama State Bar requested orders of suspension from the Alabama Supreme Court, and the court issued these orders based on orders of suspension from the disciplinary board. There is nothing in the disciplinary procedure rules that

allows the opposing attorney the right to request any order of suspension from the supreme court. Only the disciplinary board and the disciplinary commission have the power, duty and authority to suspend or disbar an attorney. See ARDP Rule 4(b)(1) supra.

43. Furthermore, the June 21, 1995 order from the supreme court was not identical to the order of suspension of May 26, 1995 from the Disciplinary Board, nor was the May 9, 1997 order from the supreme court identical to the order of suspension of October 18, 1995 from the Disciplinary Board. They were all different.

44. It is further alleged that the petitioner's due process rights were violated again when the petitioner was served with another order from the Alabama Supreme Court for the same offense on May 9, 1997 after she had served her ninety-one (91) day suspension in 1996.

45. The petitioner alleges that there is no authority in either the Alabama Rules of Civil Procedure, Appellate Procedure or Disciplinary Procedure that allows the Alabama Supreme Court to issue an order of suspension or disbarment upon an attorney in the state of Alabama. That privilege belongs exclusively to the Disciplinary Board of the Alabama State Bar. See ARDP Rule 4(b)(1) supra.

46. The Alabama Supreme Court can only affirm, reverse or remand back to the board for further action. Instead, it issued orders of suspension twice against the petitioner upon the request of the opposing attorney.

WHEREFORE, petitioner prays that this Honorable United States Supreme Court find that her right to due process has been violated and grant her the following relief:

A. Issue a Writ of Mandamus to the Alabama Supreme Court to reverse and dismiss its Orders of June 21, 1995 and May 9, 1997 as they are in violation of the Alabama Rules of Disciplinary Procedure, Civil Procedure and Appellate Procedure.

B. Issue a Writ of Mandamus to the Alabama Supreme Court to reverse the Order of Suspension from the Disciplinary Board dated October 18,1995 because the Order of Suspension of May 25, 1995 was never served upon her and therefore, she should not be punished for lack of service, and also, because she served her suspension of May 25, 1995 "no sooner than June 19, 1995" as that order required.

Respectfully submitted,

Barbara C. Miller

Barbara C. Miller, Petitioner Pro Se

APPENDIX

1. Facsimile from office of Leon Garmon on June 29, 1995 to the petitioner of the supreme court order of June 21, 1995.

2. Order of suspension dated May 25, 1995 from the disciplinary board.

3. Letter dated May 26, 1995 from the assistant general counsel of the Alabama State Bar to the clerk of the supreme court.

4. Order of suspension dated October 18, 1995 from the disciplinary board.

5. Order dated September 6, 1996 from the Alabama supreme court.

6. Order dated May 9, 1997 from the Alabama supreme court.

7. Letter dated April 18, 1997 from the assistant general counsel of the Alabama State Bar to the clerk of the supreme court.

1. Telecopier 7020; 6-29-96; 11:54;
2055460908 2055342086;#3

IN THE SUPREME COURT OF ALABAMA
June 21, 1995

In the Matter of

Barbara C. Miller

Attorney at law

Disciplinary Board of the Alabama State Bar, ASB 93-393 and 94-086

ORDER

WHEREAS, the Disciplinary Board, Panel II, of the Alabama State Bar, filed with this Court on May 26, 1995, the order of suspension in the matter of Barbara C. Miller,

IT IS ORDERED that Barbara C. Miller be suspended as an attorney authorized to practice law in the courts of Alabama, effective June 19, 1995, for a period of ninety (90) days, and further subject to the terms and conditions as set out in the May 25, 1995, order of the Disciplinary Board of the Alabama State Bar ordering her suspension.

Hornsby, C.J., and Shores, Houston, Ingram, Cook, and Butts, JJ., concur.

I, Robert G. Esdale, as Clerk of the Supreme Court of Alabama, do hereby certify that the foregoing is a full, true and correct copy of the instrument(s) herewith set out as same appear(s) of record in said Court. Witness my hand this 22nd day of June 1995.
(S) Clerk, Supreme Court of Alabama L
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2. BEFORE THE DISCIPLINARY BOARD OF THE ALABAMA STATE BAR

IN THE MATTER OF)
BARBARA C. MILLER) ASB 93-393
AN ATTORNEY AT LAW) & 94-086

ORDER OF SUSPENSION

This matter came on for a hearing before Panel II of the Disciplinary Board on May 19, 1995. The respondent attorney tendered a conditional guilty plea to all counts contained in the disciplinary cases of ASB 93-393 and ASB 94-086. The terms of the offered plea are as follows:

1. The respondent attorney pleads guilty to all Counts contained in the disciplinary charges of ASB 93-393 and 94-086.

2. The respondent attorney will be given a NINETY (90) DAY SUSPENSION as discipline in the above referenced cases.

3. In conjunction with said plea agreement, the Office of General Counsel will dismiss all other grievances currently pending against the respondent attorney. Specifically, these are ASB 92,102, 92-355, 93-490, 94-110, 94-254, 94-331, 95-021, and 95-119, and any other complaint(s) filed with the Alabama State Bar as of Friday, May 19, 1995.

4. The respondent attorney waives her right to appeal any aspect of this plea agreement.[11] The suspension will become effective not sooner than June 19, 1995.

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[11]. This was never discussed or agreed upon at the May 19, 1995 hearing. It was evidently put in by the assistant general counsel who drafted the order of suspension.

IT IS SO ORDERED that the guilty plea of Barbara C. Miller is accepted, and she is hereby, SUSPENDED from the practice of law pursuant to the provisions of Rule 8(b), Rules of Disciplinary Procedure, effective upon the issuance of an order approving same by the Alabama Supreme Court.

IT IS FURTHER ORDERED that all costs relative to this proceeding be taxed against Barbara C. Miller pursuant to Rule 8(b)(2) of the Rules of Disciplinary Procedure.

DONE this the 25th day of May, 1995.

_____(S)_____
Wanda D. Devereaux, Madam Chairman
Disciplinary Board, Panel II
Alabama State Bar
P. O. Box 103
Montgomery, AL 36101-0103

CERTIFICATE OF SERVICE

I hereby certify that the foregoing was served upon Mr. Milford L. Garmon, counsel for the respondent attorney, 945 Forrest Avenue, Gadsden, AL 35901, and Milton L. Moss, Assistant General Counsel, Alabama State Bar, 415 Dexter Avenue, Montgomery, AL 36102 by United States mail, postage prepaid, on this the 25th day of May, 1995.

_____(S)_____
Wanda D. Devereaux, Madam Chairman
Disciplinary Board, Panel II
Alabama State Bar[12]

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[12]. Ms. Devereaux did not mail this to Mr. Garmon, but gave it to Peggy Garrett, assistant to Milton Moss, assistant general counsel of the Alabama State Bar, and opposing counsel. He may have altered it after the second page was signed by Ms. Devereaux. Mr. Garmon never received an executed or filed copy of this order.

3. ALABAMA SEAL

RECEIVED

MAY 26, 1995
CLERK, SUPREME
COURT OF ALABAMA

ALABAMA STATE BAR
THE DISCIPLINARY COMMISSION
TELEPHONE 205-269-1515
P. O. BOX 671
MONTGOMERY, AL 36101
DELIVERY ADDRESS
415 DEXTER AVENUE
MONTGOMERY, AL 36104

May 26, 1995[13]

Mr. Robert G. Esdale, Sr.
Clerk of the Supreme Court
445 Dexter Avenue
Montgomery, Al 36130

Re: In the matter of Barbara C. Miller
ASB 93-393 and 94-086

Dear Mr. Esdale:

On May 19, 1995, Barbara C. Miller appeared for disciplinary hearings on the above-referenced cases. After extensive plea negotiations that day, Ms. Miller agreed to plead guilty to the charges contained in those cases, and to accept a ninety (90) days suspension to be effective no earlier than June 19, 1995. In return, the Office of General

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13. There is some question as to how the letter was written on May 26, 1995 and received by the supreme court on May 26, 1995. If it were mailed the order of suspension could not have been filed until May 30 because it was Memorial Day weekend. The Alabama Supreme Court does not have a stamp and date machine, but uses a small manual date stamp so any date can be put on any document at any time.

Counsel agreed to dismiss all other cases that were pending against Ms. Miller in various stages of processing.

This conditional plea was presented to the Disciplinary Board and accepted by them. A copy of the Board's order is enclosed. The order is dated May 25, 1995, but the plea was accepted "on the record" at the May 19th proceeding.

With respect to the cases Ms. Miller plead (sic) to, ASB 93-393 involved a situation where she continued to advocate for a client two weeks after she had been terminated. She also appeared at a final hearing in the Probate Court of Madison County and disrupted the hearing. It was apparent that her motivation through all of this was grounded in concern for her fees, and not the client's best interest.[14]

In ASB 94-086, Ms. Miller filed a lawsuit in Circuit Court over the faulty painting of a house. The plaintiff had just months earlier, filed this same action in Small Claims Court, and lost on the merits. No appeal was taken. This particular defendant was pro se in the Circuit Court action as well. When a lawyer representing some other defendants asked Mr. (sic) Miller why she didn't dismiss the pro se defendant because of a clear res judicata issue, Mr. (sic) Miller replied that he was pro se and would never know about it. Later this same lawyer agreed to represent the pro se defendant, and got the case dismissed. The Court sanctioned Ms. Miller under

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14. The board made no findings of fact and no testimony was taken as to the facts of the two complaints.

the Alabama Litigation Accountability Act.[15]

Please have the Supreme Court enter an order suspending Ms. Miller in accordance with the plea agreement and the Disciplinary Board's order accepting same. The effective date of the suspension should be subsequent to June 19, 1995.

If I can provide any further information, please let me know.

Sincerely,

_S_

Milton L. Moss
Assistant General Counsel

Encl.
MLM/pg[16]

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15. These facts are very much in error. ARDP Rule 15 IMMUNITY gives immunity to every person connected with any complaint except the respondent attorney. Complaints do not have to be in writing, may be submitted anonymously, and by phone.

16. Note that no copy was sent to the respondent attorney.

4. BEFORE THE DISCIPLINARY BOARD
OF THE ALABAMA STATE BAR

IN THE MATTER OF	)	
	)	
BARBARA C. MILLER	)	ASB 95-192
	)	
AN ATTORNEY AT LAW	)	

ORDER OF SUSPENSION

This matter came on for a hearing before Panel II of the Disciplinary Board on September 29, 1995. After a full consideration, it is the decision of the Panel that the respondent attorney, Barbara C. Miller, receive discipline in the form of a NINETY-ONE (91) DAY SUSPENSION. The respondent attorney was found guilty of Charges I, IV, and V of the Formal Charges in this matter which constitutes a violation Rule 5.5(a), Rule 8.4(d), and Rule 8.4(g) of the Rules of Professional Conduct respectively.

It is further ordered that all costs relative to this proceeding shall be taxed to the respondent attorney pursuant to Rule 8(h)(2) of the Rules of Disciplinary Procedure of the Alabama State Bar.[17]

THEREFORE, IT IS ORDERED that the respondent attorney, Barbara C. Miller, is hereby, SUSPENDED from the practice of law for a period of ninety-one (91) days pursuant to the provisions

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[17]. All costs are collected up front with little or no verification. You either pay what they ask for or they move for dismissal.

of Rule 8(b), Rules of Disciplinary Procedure, and ordered to pay costs pursuant to Rule 8(h)(2) to be effective upon issuance of an order by the Alabama Supreme Court implementing this decision.

DONE this the 18th day of October, 1995.

(S)
Wanda D. Devereaux, Chairman
Disciplinary Board, Panel II
Alabama State Bar
P. O. Box 671
Montgomery, Al 326101

CERTIFICATE OF SERVICE

I hereby certify that the foregoing was served upon Barbara C. Miller, the respondent attorney, 120 Holmes Avenue, N.E. Ste. 400, Huntsville, AL 35801, and Milton L. Moss, Assistant General Counsel, Alabama State Bar, P. O. Box 671, Montgomery, Alabama 36101 by United States mail, postage prepaid, on this the 18th day of October, 1995.

(S) Wanda Devereaux (S)
James S. Lloyd, Chairman
Disciplinary Board, Panel III
Alabama State Bar

*The name James S. Lloyd is crossed out and the number III is deleted and II put in its place.

5. 09/09/96 14:01 SUPREME COURT LIBRARY 055342086 NO. 539 001

RELEASED
SEP 6 1996
CLERK, SUPREME COURT
OF ALABAMA

STATE OF ALABAMA --JUDICIAL DEPARTMENT

THE SUPREME COURT
SPECIAL TERM, 1996

1950330

Barbara C. Miller v. Alabama State Bar. Appeal from the Disciplinary Board of the Alabama State Bar (ASB 95-192)

INGRAM, JUSTICE.[18]

AFFIRMED. NO OPINION.

See Rule 53(a)(1) and (a)(2)(F). Ala. R. App. P.

Hooper, C.J., and Almon, Houston, and Butts, JJ. concur.[19]

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18. No order from the Alabama Supreme Court is signed by a justice. All orders are typewritten.

19. This order is not certified by the clerk. The court called to give the petitioner the decision, but when the hard copy failed to appear in the mail she called for an explanation and was told there was nothing to send. The librarian of the court sent this by facsimile to the petitioner.

6. IN THE SUPREME COURT OF ALABAMA
May 9, 1997

1950330

Barbara C. Miller v. Alabama State Bar
(ASB No.: 95-192)

ORDER

IT IS ORDERED that Barbara C. Miller be stricken from the Roll of the Supreme Court as an attorney authorized to practice law in the courts of Alabama, effective May 9, 1997, for a period of ninety-one (91) days.

Hooper,C.J., and Maddox, Almon, Shores, Houston, Kennedy, Butts, and See, JJ., concur.

I, Robert G. Esdale, as Clerk of the Supreme Court of Alabama, do hereby certify that the foregoing is a full, true and correct copy of the instrument(s) herewith set out as same appear(s) of record in said Court. Witness my hand this 9th day of May, 1997.

(S)
Clerk, Supreme Court of Alabama[20]

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[20]. This order was sent by facsimile the afternoon of May 9, 1997 from the Alabama State Bar. Petitioner was appearing in circuit court at the time it was received. The hard copy followed by first class mail showing a stamped date of 08 MAY 1997, not 09 MAY 1997, from the clerk of the supreme court.

7.

ALABAMA SEAL

RECEIVED
APR 18 1997
CLERK,[21]
SUPREME COURT OF
ALABAMA

ALABAMA STATE BAR
THE DISCIPLINARY COMMISSION
TELEPHONE 334-269-1515
P. O. BOX 671
MONTGOMERY, AL 36101

April 18, 1997

FAX 334/261-6311

DELIVERY ADDRESS
415 DEXTER

AVENUE

MONTGOMERY, AL
36104

Mr. Robert G. Esdale, Sr., Clerk
SUPREME COURT OF ALABAMA
P. O. Box 157
Montgomery, AL 36101

Re: Barbara C. Miller
SC #1950330

Dear Mr. Esdale:

On September (sic) October 18, 1995, the Disciplinary Board of the Alabama State Bar suspended Barbara C. Miller of Huntsville, Alabama, for a period of ninety-one (91) days. She appealed to your court, and the suspension was affirmed. Ms. Miller then sought rehearing, and that was recently denied. On April 18, 1997, we received the Certificate of Judgment in the case..

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21. No copy was sent to the petitioner. She received her copy upon request from the clerk of the supreme court.

Please have the Supreme Court issue an order suspending Barbara B. Miller from the practice of law for a period of ninety-one days to be effective on the date that the order issues.

Sincerely
(S)
Milton L. Moss
Assistant General Counsel

MLM/pag
Encl.

CERTIFICATE OF SERVICE

I hereby certify I have served a copy of the Petition for Writ of Certiorari upon all of the Alabama Supreme Court Judges, and the assistant general counsel of the Alabama State Bar, by first class mail, properly addressed, postage prepaid on this the 26th day of June, 1997.

Barbara C. Miller

Barbara C. Miller, Attorney
120 Holmes Ave. N. E. Suite 400
Huntsville, AL 35801
(205) 536-7566/534-2086FAX